

TO: All Supervisors

No. **1-88, 30** September 1988

1. The attached information describes the current method for processing grievances under negotiated procedures. These procedures have superseded corresponding provisions in labor agreements with the American Federation of Government Employees (AFGE), Local **1858**. **All** other portions of Grievance and Arbitration articles remain in effect as written in each individual collective bargaining agreement. This information is provided to keep supervisors updated and reminded of their role in grievance processing under negotiated procedures. The process presented in the attached document was negotiated with the AFGE Local **1858** in June 1986, revised in March 1988, and slightly altered in June **1988**.

2. Since the last SLABB (No. **4-87 31** December **1987**), **two** arbitration decisions have been received. In the first case, the grievant alleged that he was inappropriately suspended for 5 days for creating a disturbance by making improper comments about other employees which caused a work stoppage. The arbitrator determined that the employee was guilty of inexcusable behavior that caused distress for two employees and created some disturbance and interference with work. However, the arbitrator stated that management had made procedural mistakes in investigating and handling the case and that the supervisor appeared to show a bias against the grievant. The arbitrator ruled that, based on the circumstances the suspension should be reduced to **3** days. The employee will receive backpay and benefits for the difference of 2 days. In the other case, the employee claimed that he was inappropriately given a 3-day suspension for failing to obey instructions to provide information in conjunction with his security clearance. The arbitrator decided that the grievant did, in fact, fail to follow instructions within the time specified by his supervisor. However, the arbitrator concluded that the penalty was arbitrary, excessive, unreasonable, and unjustified in accordance with policy and regulations of the Agency. Therefore, he ordered that the suspension be reduced to 1 day with the employee receiving pay and benefits for the other 2 days.

3. Five employee grievances are pending arbitration hearings or decisions, and three other Union requests for arbitration of employee grievances have been withdrawn.

4. One unfair labor practice (ULP) charge has been resolved since the previous SLABB. The Union alleged that representatives of the Commissary interfered with the Union's right, during a nonduty period, to talk with bargaining unit employees by barging into a meeting. Management contended that the meeting was held in Commissary facilities without proper notification

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and that the meeting interfered with other employees using the facility. Also, management suggested that some employees involved in the meeting were on duty time. The Parties agreed to a settlement **of this** matter without investigation by the Federal Labor Relations Authority (FLRA). The Union President and the Commissary Officer signed and posted, for **30** days, a Memorandum of Understanding stating that the incident was regrettable, and both acknowledged that the Union may meet with bargaining unit employees in Commissary facilities as permitted by work requirements when appropriate arrangements are made.

5. Three other ULPs filed by AFGE Local **1858** are pending investigation by FLRA.

6. Renegotiation of the Agreement covering employees of the U.S. Army Strategic Defense Command started on 2 June 1988 and the parties have met **23** times.

7. Renegotiation of the Agreement covering Nonappropriated Fund Employees began on 29 June **1988** and the parties have met **6** times.


LEROY DANIELS
Civilian Personnel Officer

Enclosure

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Employee Grievance Procedure

a. First Step:

(1) The employee and/or his Union representative will advise the immediate supervisor (in the event that the grievance involves the immediate supervisor, the first contact may be with the next level supervisor) within 10 workdays after the act, or knowledge of the act, or specific incident giving rise to the grievance that he is instituting the negotiated grievance procedure. The supervisor will acknowledge the request and set a time and date for the meeting. At the meeting, the employee and his Union representative, if any, must present (may be orally) the nature of the problem for resolution and the personal relief sought. Grievances resulting from continuing conditions may be presented at any time. Failure to adhere to the time limit shall result in denial of the grievance if the aggrieved party causes the delay.

(2) If there is no question as to grievability *or* timeliness and the matter is within the scope of the supervisor's authority an effort will be made to work out a mutually satisfactory adjustment. If the matter cannot be resolved or if it is outside the scope of the supervisor's authority, the discussion will serve as a basis for clarifying the issues involved prior to referral to Step 2.

(3) The First Step supervisor will render a brief written decision to the grievant and his Union representative, if any, within 5 workdays after conclusion of the First Step discussion.

(4) If the employee is dissatisfied with the decision of the First Step supervisor, he will, within 5 workdays after the decision, provide a written notice to the First Step supervisor to advise of his desire to pursue the grievance further. The written notice will be in the following format:

EMPLOYEE GRIEVANCE REPORT

Employee's Name _____ Series and Grade _____

Title _____

Telephone _____ Organization _____

Supervisor _____

Name of Representative (if any) and Telephone No. _____

Nature of grievance, including Article(s) of the negotiated agreement, policies, and regulation(s), as may be appropriate under applicable law (to include specific paragraph, subparagraphs, etc.). An explanation specifying how, when, and to what extent the negotiated agreement, policies, or regulations(s) were violated, and the personal relief sought.

Date _____ Employee's Signature _____

b. Second Step :

(1) Upon receipt of written notice, the Employer Will make arrangements for a discussion of the matter between the employee, his Union representative, if any, and the Second Step deciding official who will be the Chief of the Primary Organizational Element (POE) immediately below the ~~Commander~~ or comparable level having authority to resolve the grievance identified in the employee Grievance Report. The responsibility of the Second Step deciding official (Chief of the POE) may be delegated to the Chief of a next lower level organization only in emergencies or by agreement of the parties or when functional responsibilities have been specifically designated to a position by the Commander or comparable level. The grievant and his/her Union representative, if any, shall be consulted on their availability for the Second Step meeting before scheduling. The employee and Union representative will be provided written notice of when and where the meeting will be held. The Employer will forward a copy of the meeting notice to the Union President. This meeting will be held within 10 workdays after the date of receipt by the supervisor of the Employee Grievance Report.

(2) The meeting will include as a minimum, the Second Step deciding official, the Union representative, if any, and the grievant. Documents relating to the grievance and utilized by either **party** at this meeting shall be made available to the other party, subject to legal, regulatory or other restrictions (e.g., Privacy Act, etc.). Management and Union representatives will be permitted to question the grievant and any other attendees concerned with the case. The Second Step deciding official will provide a stenographer from within his/her workforce to take minutes and to come as close as possible (within his/her own capabilities) to recording verbatim testimony of witnesses during examination. A copy of the stenographer's minutes of the Second Step meeting shall be provided to the Union at the time the Second Step decision is rendered. If the grievance is pursued to the Third Step, the stenographer's minutes shall be included as part of the package submitted to the Commander or comparable level. The Second Step deciding official shall render a written decision, to include documentation and the basis for the decision, within 10 workdays after the Second Step meeting. ~~he~~ Chief of the POE will concur (in writing) in decisions rendered by the Chief of the next lower level organization. In the event that the Second Step decision is not acceptable to the

grievant, the employee may submit a grievance in writing to the Commander or comparable level. The written grievance shall be submitted within 10 workdays after receipt of a decision from the Second Step deciding official.

c. Third Step:

(1) The written grievance will be addressed through supervisory channels to the Commander or comparable level, ATTN: Civilian Personnel Office (AMSMI-PT-CP-ME-LR). A copy of the grievance, as filed with the Commander or comparable level, must be furnished at the same time to the Second Step deciding official and to the President, AFGE, Local **1858**. The grievance package will contain the following information:

(a) Employee's name and organization and the name of the Union representative (if any).

(b) Specific nature of grievance including Article(s) of the negotiated agreement, policies, and regulation(s), as may be appropriate under applicable law (to include specific paragraph, subparagraph, etc.).

(c) An explanation specifying how, when, and to what extent the negotiated agreement, policies, **or** regulations were violated.

(d) Personal relief sought.

(e) Statement that attempt has been made to resolve the grievance in accordance with Steps One and Two.

(f) A copy of the Employee Grievance Report and the written decision from the Second Step.

(g) Employee position paper (if desired).

(2) The Second Step deciding official and the Union may submit a position paper to the Commander or comparable level, ATTN: Civilian Personnel Office (AMSMI-PT-CP-ME-LR), within 10 workdays after receiving a copy of the written grievance submitted at the Third Step. The Union's position paper at the Third Step may be submitted in a sealed envelope to be opened only by the Commander or comparable level.

(3) The Commander **or** comparable level, or his designee (within the Command group) will grant or deny the grievance. A copy of the decision will be furnished to the grievant/Union within 20 workdays after completion of c(2) above. The position papers, if any, developed by the Second Step deciding official and the Union shall be included in the Third Step decision package when returned to the grievant and the Union President.

(4) If the decision of the Commander or comparable level or his designee is not acceptable, the Union may refer the grievance to arbitration in accordance with this Agreement.